

ASSEMBLY BILL

No. 679

Introduced by Assembly Member Garrick

February 26, 2009

An act to amend Section 791.10 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 679, as introduced, Garrick. Insurance: adverse underwriting decisions.

Existing law requires an insurance company or agent to provide an applicant or policyholder the reasons for an adverse underwriting decision in writing or to advise him or her orally that he or she may receive the reasons in writing if he or she so requests.

This bill would, instead, state that if the insurance company or agent chooses to give the oral advisement, the advisement must be that the applicant or policyholder will receive the reasons in writing if he or she requests.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 791.10 of the Insurance Code is amended
- 2 to read:
- 3 791.10. (a) In the event of an adverse underwriting decision
- 4 the insurance institution or agent responsible for the decision shall:
- 5 (1) Either provide the applicant, policyholder, or individual
- 6 proposed for coverage with the specific reason or reasons for the

1 adverse underwriting decision in writing or, except as provided in
2 subdivision (e), advise the person that upon written request he or
3 she ~~may~~ *shall* receive the specific reason or reasons in writing.

4 (2) Provide the applicant, policyholder or individual proposed
5 for coverage with a summary of the rights established under
6 subdivision (b) and Sections 791.08 and 791.09.

7 (b) Upon receipt of a written request within 90 business days
8 from the date of the mailing of notice or other communication of
9 an adverse underwriting decision to an applicant, policyholder or
10 individual proposed for coverage, the insurance institution or agent
11 shall furnish to such person within 21 business days from the date
12 of receipt of such written request:

13 (1) The specific reason or reasons for the adverse underwriting
14 decision, in writing, if such information was not initially furnished
15 in writing pursuant to paragraph (1) of subdivision (a).

16 (2) The specific items of personal and privileged information
17 that support those reasons; provided, however:

18 (A) The insurance institution or agent shall not be required to
19 furnish specific items of privileged information if it has a
20 reasonable suspicion, based upon specific information available
21 for review by the commissioner, that the applicant, policyholder
22 or individual proposed for coverage has engaged in criminal
23 activity, fraud, material misrepresentation or material
24 nondisclosure.

25 (B) Specific items of medical record information supplied by a
26 medical care institution or medical professional shall be disclosed
27 either directly to the individual about whom the information relates
28 or to a medical professional designated by the individual and
29 licensed to provide medical care with respect to the condition to
30 which the information relates, whichever the individual prefers.

31 Mental health record information shall be supplied directly to
32 the individual, pursuant to this subdivision, only with the approval
33 of the qualified professional person with treatment responsibility
34 for the condition to which the information relates.

35 (3) The names and addresses of the institutional sources that
36 supplied the specific items of information given pursuant to
37 paragraph (2) of subdivision (b); provided, however, that the
38 identity of any medical professional or medical care institution
39 shall be disclosed either directly to the individual or to the
40 designated medical professional, whichever the individual prefers.

1 (c) The obligations imposed by this section upon an insurance
2 institution or agent may be satisfied by another insurance institution
3 or agent authorized to act on its behalf.

4 (d) When an adverse underwriting decision results solely from
5 an oral request or inquiry, the explanation of reasons and summary
6 of rights required by subdivision (a) or (e) may be given orally to
7 the extent that such information is available.

8 (e) Except as provided in subdivision (d), with respect to a
9 declination, cancellation, or nonrenewal of a property insurance
10 policy covered by Section 675 or an automobile insurance policy
11 covered by Section 660, or an individual life, health, or disability
12 insurance policy, the insurance institution or agent responsible for
13 the decision shall provide the specific reason or reasons in writing
14 at the time of the decision. The communication of medical record
15 information for a life or health insurance policy shall be subject
16 to the disclosure requirements of subparagraph (B) of paragraph
17 (2) of subdivision (a). This subdivision shall become operative on
18 July 1, 2006.